

FIRST REGULAR SESSION

SENATE BILL NO. 222

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Read 1st time January 25, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1184S.02I

AN ACT

To amend chapter 196, RSMo, by adding thereto one new section relating to which tobacco products can be lawfully sold in Missouri.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 196, RSMo, is amended by adding thereto one new section, to be known as section 196.1004, to read as follows:

196.1004. 1. For purposes of this section, the following terms mean:

- (1) "Cigarette", as defined in sections 196.1000 to 196.1003;**
- (2) "Department", the department of revenue;**
- (3) "Director", the director of the department of revenue;**
- (4) "Tobacco product manufacturer", as defined in sections 196.1000 to 196.1003.**

2. Commencing on January 1, 2006, and on or before the first of every month thereafter, every tobacco product manufacturer that offers for sale or sells cigarettes or other tobacco products in Missouri shall provide proof to the director of the department of revenue of compliance with sections 196.1000 to 196.1003. On or before September 1, 2005, the director shall, in cooperation with the attorney general, publish and conspicuously post on the department's internet website a list of what documents, reports, and financial instruments are acceptable as proof. The director may update this list as needed and may require that such proof be submitted electronically and uniformly on department designed and designated forms.

3. Commencing on January 1, 2006, and on or before the first of

every month thereafter, every tobacco product manufacturer that offers for sale or sells cigarettes or other tobacco products in Missouri shall provide a list to the director of the department of revenue of all the cigarette and other tobacco products, brands, and brand families that they offer for sale or sell in Missouri. The director may require that this list be submitted electronically and uniformly on department designed and designated forms.

4. Commencing on January 15, 2006, and on or before the fifteenth of every month thereafter, the director of the department of revenue shall publish and conspicuously post on the department's internet website a certified list of:

(1) All the tobacco product manufacturers that are in compliance with sections 196.1000 to 196.1003; and

(2) All the cigarette and other tobacco products, brands, and brand families manufactured by each tobacco product manufacturer that is in compliance with sections 196.1000 to 196.1003.

5. It shall be unlawful to offer for sale or sell any cigarette or other tobacco product, brand, or brand family not listed on the certified list required in subsection 4 of this section. Offering for sale or selling any cigarette or other tobacco product, brand, or brand family not listed on the certified list required in subsection 4 of this section shall subject the wholesaler or retailer to a mandatory seizure and forfeiture of all of the prohibited cigarette and other tobacco products, brands, or brand families, a mandatory suspension of all cigarette and other tobacco product sales for a minimum of one hundred twenty days, and any and all applicable administrative, civil, and criminal fines and punishments.

6. No wholesaler or retailer shall be subject to any administrative, civil, or criminal seizure, forfeiture, suspension, fine, or punishment for offering for sale or selling any cigarette or other tobacco product, brand, or brand family listed on the certified list required in subsection 4 of this section.

7. The attorney general shall cooperate with and assist the director of the department of revenue in complying with this section.

8. The attorney general, the director of the department of revenue, and state and local law enforcement shall have authority to enforce this section. The attorney general and the director shall

designate, publish, and conspicuously post on their internet websites how members of the public can contact the attorney general and the department to register or file a complaint that alleges that a wholesaler or retailer is in violation of this section. Every complaint filed shall be investigated by the attorney general, the director, or state and local law enforcement within ten days of receipt.

9. The director of the department of revenue shall have rulemaking authority for this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

T

Bill

Copy